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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,840	07/20/2006	Johann Magg	2004P00164WOUS	2937

46726 7590 04/27/2010
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

ALEXANDER, REGINALD

ART UNIT

PAPER NUMBER

3742

NOTIFICATION DATE

DELIVERY MODE

04/27/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NBN-IntelProp@bshg.com

Office Action Summary

Application No.

10/586,840

Applicant(s)

MAGG ET AL.

Examiner

Reginald L. Alexander

Art Unit

3742

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 15-23 is/are allowed.
- 6) ☒ Claim(s) 8-11, 13, 14 and 24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-11 and 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Levinson.

There is disclosed in Levinson a coffee machine comprising: a housing 3; a brewing chamber (internal chamber) disposed within the housing; a drawer 4 for supplying coffee pads (cans) 5 into the brewing chamber, the drawer being removably and detachably connected to the housing; guide continuations 21 forming part of the drawer, the continuations projecting in the direction of insertion and engage in guides 22 of the housing of the coffee machine for mounting the drawer in an open position, the ends of the continuations being beveled; a front plate 31 forming part of the drawer and abutting against the housing when the drawer is in a closed position; a retainer cover 26 formed partially of an elastic material (seal) 65, 65'; a coffee pad retainer 27 that forms a lower region of the brewing chamber; and a plurality of projections 28, 28' on a bottom surface of the retainer cover.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 8-11 and 14 are rejected under 35 U.S.C. 102(a) as being anticipated by Pfeifer et al.

There is disclosed in Pfeifer a coffee machine, comprising: a housing and a brewing chamber; and a drawer 16 insertable within the housing, the drawer having

guide continuations 82, 84 which engage guides within the housing, where in the continuations are slightly beveled on the ends.

In regards to the removably and detachably connected arrangement of the drawer, it is apparent that the drawer could be removed and returned. The presence of elements such as rails 82, 84 and guide wheels 86, 88 give weight to the draw being removable and connectable to the housing.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pfeifer et al. in view of Basile et al.

Basile discloses a drawer for a coffee machine, the drawer having base which includes a central opening surrounded by smaller openings of a screen member.

It would have been obvious to one skilled in the art to provide the drawer of Pfeifer with the screen taught in Basile, in order to ensure no coffee particles pass through the central opening.

Allowable Subject Matter

Claims 12 and 15-23 are allowed.

Response to Arguments

Applicant's arguments filed 18 February 2010 have been fully considered but they are not persuasive.

In response to Applicant's request to make the current action non-final due to lack of consideration of the arguments presented in the prior action, such request is denied. Applicant states that the Examiner indicated in a telephone interview that the arguments made in the action dated 21 September 2009 were not considered. This statement is false, or brought about due to a misinterpretation of the Examiners statements. It was stated in the conversation that the arguments were considered when making a rejection, but a response to such arguments was not presented in the office action. As with any office action Applicant's amendment and responses are taken as a whole when examination of an application is made. Such responses weigh into any rejection made by the Examiner. In this case the rejection of claims made took into consideration all arguments presented by Applicant. A view of the rejection, on art, shows all considerations of Applicant were covered when making the rejection.

Applicant argues that the open space of Levinson can not be a brewing chamber because the brewing does not take place in the open space but takes place in the can 5 inserted into the space.

In so far as Applicant has defined structurally a brewing chamber, the space within the Levinson device reads on such chamber. The physical act of brewing takes place within the can at the location of the brewing chamber (open space). A chamber is defined by an open space. Applicant's suggestion that the can 5 need be the brewing

chamber is erroneous and contradictory of what is disclosed and claimed within the application. The can is equivalent to the pad disclosed and claimed by Applicant. The brewing is disclosed in Applicant's invention as taking place within the pad.

Applicant argues that Pfeifer does not teach or suggest a removable and detachable drawer.

Applicant has failed to recite in the claims any structural arrangement which is not met by the Pfeifer reference. Without and defined structure, the function of the drawer being removable and detachable comes down to whether the disclosed prior art can perform such a function. This is a result of giving the claim language its broadest reasonable interpretation. The Examiner need not read into the specification for specifics involving the function or purpose for said function, involving a claimed element. In this case it is apparent that the drawer of Pfeifer could be removed and detached from the housing.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Reginald L. Alexander/
Primary Examiner
Art Unit 3742